

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

EARNEST S. ROWE,

Plaintiff

v.

KILOLO KIJAKAZI,  
Acting Commissioner of  
Social Security Administration,

Defendant

Case No.: 2:20-cv-00562-WGC

**Order**

Plaintiff, through counsel, filed a complaint for review of a Social Security Disability (DIB) or Supplemental Security Income (SSI) decision against the Commissioner of Social Security Administration. (ECF No. 1.) The complaint included a summons to the then-Acting Commissioner Andrew Saul at the Social Security Administration, 6401 Security Boulevard, 1100 West High Rise, Baltimore, Maryland 21235. (ECF No. 1-2.) The Clerk issued a summons. (ECF No. 3.)

On May 29, 2020, Plaintiff filed a return indicating that Andrew Saul was served by sending the summons and complaint by First Class mail, presumably to the address listed on the summons. (ECF No. 4.)

On August 31, 2021, Plaintiff filed a motion for clerk's entry of default under Federal Rule of Civil Procedure 55(b)(2). (ECF No. 6.)

On September 1, 2021, the court issued an order denying the motion, noting that clerk's entry of default is governed by Federal Rule of Civil Procedure 55(b)(1), and not 55(b)(2). In any event, the court concluded that the Commissioner had not properly been served under Federal

1 Rule of Civil Procedure 4(i). The court gave Plaintiff 30 days to file a proof of service indicating  
2 proper service on the Commissioner, and cautioned that a failure to do so would result in  
3 dismissal of this action without prejudice under Federal Rule of Civil Procedure 4(m). (ECF No.  
4 7.)

5 To date, Plaintiff has not filed a proof of service indicating proper service of the  
6 Commissioner. Therefore, this action is **DISMISSED WITHOUT PREJUDICE** pursuant to  
7 Federal Rule of Civil Procedure 4(m) for failure to timely serve the Commissioner. The Clerk  
8 shall **ADMINISTRATIVELY CLOSE** this action.

9 **IT IS SO ORDERED.**

10 Dated: October 4, 2021

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William G. Cobb  
United States Magistrate Judge  
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